

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

HERITAGE POWER, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 23-90032 (CML)
)
)
) (Joint Administration Requested)
)

**DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN ORDER (I) EXTENDING
TIME TO FILE (A) SCHEDULES OF ASSETS AND LIABILITIES, (B) SCHEDULES
OF CURRENT INCOME AND EXPENDITURES, (C) SCHEDULES OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, AND (D) STATEMENTS OF FINANCIAL
AFFAIRS AND (II) GRANTING RELATED RELIEF**

Emergency relief has been requested. Relief is requested not later than 9:00 a.m. on January 25, 2023.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must either appear at the hearing or file a written response prior to the hearing. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on this matter on January 25, 2023 at 9:00 a.m. (Central Time) in Courtroom 401, 4th Floor, 515 Rusk, Houston, Texas 77002. Participation at the hearing will only be permitted by an audio and video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's home page. The meeting code is "Judge Lopez". Click the settings icon in the upper right corner and enter your name under the personal information setting.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Heritage Power, LLC (9775) ; Blossburg Power, LLC (3538); Brunot Island Power, LLC (8482); Gilbert Power, LLC (2872); Hamilton Power, LLC (6256); Heritage Power Intermediate Holdings, LLC (8767); Heritage Power Marketing, LLC (3891); Hunterstown Power, LLC (4065); Mountain Power, LLC (6709); New Castle Power, LLC (8606); Niles Power, LLC (6766); Orrtanna Power, LLC (8863); Portland Power, LLC (3465); Sayreville Power, LLC (6167); Shawnee Power, LLC (3714); Shawville Power, LLC (8264); Titus Power, LLC (6547); Tolna Power, LLC (8431), and Warren Generation, LLC (8699). The location of the Debtors' service address is: 1360 Post Oak Blvd., Suite 2000, Houston, TX 77056.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your electronic appearance, click the “Electronic Appearance” link on Judge Lopez’s home page. Select the case name, complete the required fields and click “Submit” to complete your appearance.

Heritage Power, LLC and its affiliated debtors and debtors-in-possession (collectively, the “Debtors”) hereby move the Court (this “Motion”) for entry of an order, substantially in the form attached hereto, pursuant to sections 105(a) and 521 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 1007(c) and 9006(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Local Rules”) and the Southern District of Texas Complex Chapter 11 Case Procedures, extending the deadline by which the Debtors will file their schedules of assets and liabilities, schedules of current income and expenditures, schedules of executory contracts and unexpired leases, and statements of financial affairs (collectively, the “Schedules and Statements”). In support of this Motion, the Debtors rely upon and incorporate by reference the *Declaration of R. David Freysinger in Support of the Debtors’ Chapter 11 Petitions and Requests for First Day Relief* (the “First Day Declaration”), which is filed concurrently herewith.² In further support of this Motion, the Debtors respectfully represent as follows:

RELIEF REQUESTED

1. The Debtors seek entry of an order, substantially in the form attached hereto (the “Order”), extending the deadline by which the Debtors will file the Schedules and Statements by an additional 45 days to and including March, 24, 2023, for a total of 59 days from the Petition Date,³ without prejudice to the Debtors’ ability to request additional extensions.

²All capitalized terms used and not defined herein shall have the meanings ascribed to them in the First Day Declaration.

³ Calculated in accordance with Bankruptcy Rule 9006(a)(1).

JURISDICTION AND VENUE

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). The Debtors confirm their consent pursuant to Bankruptcy Rule 7008 to the entry of a final order by the Court in connection with the Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory and legal predicates for the relief requested herein are sections 105(a), and 521 of the Bankruptcy Code, Bankruptcy Rules 1007(c) and 9006(b), and Local Rule 9013-1.

BACKGROUND

5. On the date hereof (the “Petition Date”), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code (collectively, these “Chapter 11 Cases”). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to operate their businesses and manage their financial affairs as debtors in possession.

6. Contemporaneously herewith, the Debtors filed a motion seeking procedural consolidation and joint administration of these Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b) and Local Rules 1015-1 and 9013-1. No request for a trustee or examiner has been made in these Chapter 11 Cases, and no committee has been appointed or designated.

7. The Debtors are a power company with a focus on power generation activities in Pennsylvania, New Jersey and Ohio. The Debtors own or operate sixteen power generation assets with thirteen in Pennsylvania, two in New Jersey and one in Ohio. Additional information

regarding the Debtors' history and business operations, capital structure and primary secured indebtedness, and the events leading up to the commencement of these Chapter 11 Cases can be found in the First Day Declaration.

BASIS FOR RELIEF

8. Pursuant to section 521 of the Bankruptcy Code, debtors are required to file their Schedules and Statements. Further, Bankruptcy Rule 1007(c) imposes a 14-day deadline after their petition date for debtors to file their Schedules and Statements. But, pursuant to Bankruptcy Rules 1007(c) and 9006(b), the Court has authority to extend the time required for filing of the Schedules and Statements "for cause." Ample cause exists to grant the relief requested herein. To prepare their Schedules and Statements, the Debtors will have to compile information from books, records, and documents relating to hundreds of claims, assets, and contracts. Collection of the necessary information will require a significant expenditure of time and effort on the part of the Debtors, their employees, and their advisors. In the days leading up to the Petition Date, the Debtors' primary focus has been exploring restructuring alternatives, which ultimately culminated in the commencement of these Chapter 11 Cases.

9. As explained above and in the First Day Declaration, the Debtors' business operations are complex, and preparing the Schedules and Statements accurately and in appropriate detail will require significant attention from the Debtors' personnel and the Debtors' advisors. The Debtors' request for a 45-day extension of time to file the Schedules and Statements, without prejudice to the Debtors' ability to request additional extensions for cause shown, is appropriate and warranted under the circumstances.

10. The relief requested will not prejudice any party in interest. The Debtors intend to work cooperatively with the U.S. Trustee and any other necessary parties in these Chapter 11 Cases

to provide access to relevant information regarding the business and financial affairs of the Debtors.

EMERGENCY CONSIDERATION

11. Pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm,” and Local Rule 9013-1(i), the Debtors respectfully request emergency consideration of this Motion. The Motion requests relief from procedural rules and requirements that pertain to matters of immediate significance or which involve deadlines sooner than 21 days after the Petition Date. The relief will save costs and avoid undue administrative burden and confusion only if granted before the applicable deadlines. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

NOTICE

12. The Debtors will provide notice of this motion to the following parties or their counsel: (a) the U.S. Trustee; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) Jefferies Finance, LLC, as administrative agent (the “Administrative Agent”), and its counsel, if any; (d) counsel to the ad hoc group of lenders under the Debtors’ prepetition credit facility (the “Ad Hoc Group of Lenders”); (e) MUFG Union Bank, N.A., as the collateral agent (the “Collateral Agent”) and its counsel, if any; (f) the United States Attorney’s Office for the Southern District of Texas; (g) the Internal Revenue Service; (h) the United States Securities and Exchange Commission; (i) the United States Environmental Protection Agency and similar state environmental agencies for states in which the Debtors conduct business; (j) the state

attorneys general for states in which the Debtors conduct business; and (k) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

13. The Debtors request that the Court enter an order, granting the relief requested in this motion and granting such other and further relief as is appropriate under the circumstances.

Dated: January 24, 2023

Respectfully submitted,

By: /s/ Charles A. Beckham, Jr.

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Proposed Counsel for the Debtors and Debtors in Possession

Certificate of Accuracy

In accordance with Bankruptcy Local Rule 9013-1(i), I hereby certify that the foregoing statements regarding the nature of the emergency as set forth in the foregoing Motion are true and accurate to the best of my knowledge.

/s/ Charles A. Beckham, Jr.

Charles A. Beckham, Jr.

Certificate of Service

I certify that on January 24, 2023, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Charles A. Beckham, Jr.

Charles A. Beckham, Jr.